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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,333	08/19/2003	Dianne M. Goodwin	1166.1101101	3993

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EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3633

MAIL DATE	DELIVERY MODE
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01/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/643,333	Applicant(s) GOODWIN ET AL.	
	Examiner BASIL KATCHEVES	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-20 and 39-47 is/are pending in the application.
- 4a) Of the above claim(s) 8-20 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,40-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final office action is necessitated by the examiners error in restricting, by original presentation, claims 8 and 40 and their depending claims in the final action dated 8/2/07 as being drawn to a separate embodiment. In a telephone conversation initiated by the applicant's representative on 11/28/07, the examiner agreed that claims 8 and 40 were not drawn to a different embodiment and that a second final action would be mailed to the applicant. Upon further review by the examiner, claim 8 and the claims depending from 8 are drawn to a subcombination door which may have separate utility than the door/structure claimed in the combination claim 1, as stated below. Claim 40 and its depending claims have been examined below. The applicant then submitted the amendment dated 1/2/08 which included new claims 45-47.

Election/Restrictions

Amended claim 8 (amended in the claims dated 5/21/07) is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims and their dependant claims are drawn to a combination/subcombination door and tent. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8, 9, 11-14, 17, 18, 20, 39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Inventions of claim 1 and claim 8 are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the particulars of the door as claimed in claim 8 are not in the combination as claimed in claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 40-47 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,579,799 to Zheng.

Regarding claim 40, Zheng discloses a collapsible structure having a door (fig. 8) which is fan shaped and made of a flexible material, which moves from an open to a closed position by a curvilinear motion (rolled figs. 8) and is inherently capable of pivoting about its attachment point (fig. 8: line opposite point of door).

Regarding claims 41-43, Zheng discloses two reinforcing members (fig. 8: folded portions meeting at point) which radiate from the attachment point.

Regarding claim 44, Zheng discloses the door as being between two layers (between fig. 7: outer door, and material of wall)

Regarding claims 45-47, Zheng discloses all the materials as made of a flexible fabric and the structure being a tent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,532,699 to Franklin et al.

Regarding claim 1, Franklin discloses a structure which has a double layered wall (fig. 6: 114, 112 & both inside and outside of wall fig. 10: 110, 144), the door (24) is positioned between the wall layers, and the door is configured to allow passage through an entranceway into the structure. Franklin does not particularly disclose the structure as being collapsible. However, Franklin discloses portable structures (column 1, lines 29-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the structure portable in order to relocate to better

surroundings affording better lighting, a portable structure would have components that are removable, or collapsable, such as removable shelving, removable doors, etc, in order to aid in the relocation of the structure.

Regarding claim 2, Franklin discloses the door as fitting within the double layered wall (fig. 6: 114). The door shape is a shape capable of acting as a fan, pushing air.

Regarding claim 4, Franklin discloses the door as sliding and fitted between the layers (114).

Regarding claim 5, Franklin discloses a reinforcement member (132) coupled to the door).

Regarding claim 6, Franklin discloses the door as having a fastener (126) coupled to it.

Regarding claim 7, Franklin discloses the door as flexible (column 2, line 49).

Response to Arguments

Applicant's arguments filed 1/2/08 have been fully considered but they are not persuasive. The applicant argues the Franklin reference does not meet the limitation of being collapsible. The structure is inherently collapsible as most all buildings are capable of being collapsed. The applicant also states that Franklin discloses a portable structure with inflated ribs and that it would not be obvious to use an inflated structure. However, the examiner states that making the structure

portable is something disclosed by Franklin, and not to make the structure inflatable. Franklin discloses the use of portability. Also, the applicant argues the fan shape of a door. The applicant should note that a fan may be of any suitable shape which may direct an airflow. This is met by Franklin.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.



Basil Katcheves

BK

1/22/08

Primary Examiner, AU 3633